

May 22, 2006

Docket Clerk  
Fruit and Vegetable Programs  
AMS – USDA  
1400 Independence Avenue SW  
Stop 0243  
Washington, DC 20250-0243

Re: Docket No. FV06-1290-1 PR  
Federal Register / Vol. 71, No. 76 pages 20353-20357

To Whom It May Concern:

On behalf of the National Association of State Departments of Agriculture (NASDA) representing the 50 state commissioners, secretaries and directors of agriculture and the director of Puerto Rico, I am submitting these written comments on the proposed rules regarding the Specialty Crop Block Grant Program.

As noted in the proposed rule, the Specialty Crops Competitiveness Act (SCCA) of 2004 (7 U.S.C. 1621 note) authorized the Specialty Crop Block Grant Program. Congress approved the initial block grant for specialty crops in 2001 and we believe this program builds upon the success of that program. States, working in cooperation with their agricultural communities, were able to direct funds to areas that would provide the greatest overall benefits to their state citizens and producers. These areas included programs such as food safety and security, agricultural education, research, pest and disease prevention, marketing and promotion, and enhancement of the health and nutrition of our children and adults.

Since these proposed rules will become the foundation on how states will carry out this block grant program, it must have flexibility so that individual states can effectively meet the most critical needs of its specialty crop industry and have accountability to ensure funds are used according to the directions of Congress and as provided in each State plan as authorized in Sec. 101, subsection (e) of the SCCA.

According to the SCCA, “the Secretary of Agriculture shall make grants to States for each of the fiscal years 2005 through 2009 to be used by State departments of agriculture solely to enhance the competitiveness of specialty crops.” While researching the definition of “block grant,” two definitions were found to provide some direction. One definition is “in a federal system of government, a **block grant** is a large sum of money granted by the national government to a regional government with only general provisions as to the way it is to be spent. Another definition for **block grant** is “an unrestricted federal grant, as to a locality.” Both definitions support the principle that this program must provide flexibility to a state department of agriculture to carry out the program based on the unique needs and priorities of the specialty crop industry in its state.

NASDA members strongly suggest that each state department of agriculture be notified by USDA on the amount of the block grant that the state can receive and then based on that amount, a state department of agriculture will prepare a state plan that meets USDA requirements and the intent of Congress. In knowing the total grant amount, a state will have a better opportunity to prepare a state plan for the duration of the program. States as well as the specialty crop producers and interested citizens could provide specific details on priorities and projects, such as those elements proposed in the rule. These



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include measurable outcomes, budget costs, potential impacts, goals, work plans, oversight practices and multi-state projects. How can we expect individuals to put the time into project proposals if the block grant amount is not identified with certainty beforehand?

The following are specific comments and questions on the proposed rule:

### **Section 1290.1, Purpose**

Under this section, AMS states that other applicable federal statutes and regulations, including but not limited to, 7 CFR part 3016 will be used to make grants. This part of the Code indicates that the State must use the applicable cost principles outlined in the Office of Management and Budget (OMB) Circular A-87. This circular restricts allowable projected costs related to advertising, public relations, selling and marketing. These regulations should not be construed to prohibit state departments of agriculture from marketing and promoting specialty crops. In the 2001 block grant program, half of the grants were used for marketing purposes. (See page 12 of NASDA's 2004 Progress Report on State Agricultural Block Grants.) We suggest that marketing and promotion of specialty crops be explicitly allowed under these rules.

### **Section 1290.2, Definitions**

NASDA members note that the definition of "specialty crop" is derived from the SCCA verbatim. We respect the direction of Congress, however, several states would like clarification on crops such as grapes for wine, Christmas tress, seed crops, vegetable seeds, flax, dry edible beans, dry peas, maple syrup, sod (turf), apple cider and oilseeds to name a few. We also note that in the House report accompanying the SCCA of 2004 that the section-by-section analysis includes a discussion about the definition of "specialty crops." It specifically states the following: "The Committee is aware that no one legal definition currently exists for "specialty crops" and that each agency at the United States Department of Agriculture (USDA) has various definitions that reflect the development of different programs." It goes on to report that "the block grant program is intended for all specialty crop producers, however their crops are marketed." In addition, the Committee encouraged Hawaii's Department of Agriculture to work with USDA to determine additional eligible specialty crops, as appropriate. This type of consultation by USDA may be helpful to other state departments of agriculture with certain specialty crops.

### **Section 1290.4 Eligible Grant Project**

We propose to remove in Section 1290.4, subsection (a), the sentence "Priority will be given to fresh specialty crop projects." The public law did not include a priority for fresh. It does include in its purpose that the federal policy changes are necessary to accomplish the goals of "increasing fruit, vegetable, and nut consumption and improving the competitiveness of United States specialty crop producers." As indicated earlier, the committee report states, "the block grant program is intended for all specialty crop producers, however their crops are marketed."

### **Section 1290.5, Restrictions and limitations on grant funds**

We understand that Section 1290.5, subsection (c) is language directly from the public law. However, several states would like to know if this language prevents a state from creating a new state program that would support specialty crops.

We suggest in subsection (c) “Grant funds shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds,” to add the following sentence: States may also create new programs with the expenditure of new state funds, which shall be interpreted as meeting this requirement.

### **Section 1290.5, Completed application**

NASDA members have several concerns regarding the 10 steps in completing a state plan. From our experiences in administering the 2001 specialty crop block grant program, a state plan would provide goals, priorities, objectives, actions and administrative procedures that are unique to each state and that would enhance the competitiveness of specialty crops in that state. As reported in NASDA’s 2004 Progress Report on State Agricultural Block Grants, state departments of agriculture identified more than 30 priority programs. (See page 10 of NASDA report.) Marketing and promotion topped the list.

Overall, it is our opinion that the reporting requirements for this grant are onerous and more time-consuming than the modest estimate burden provided by AMS in the Paperwork Reduction Act section. Again, since this is a block grant program and not a competitive grant, why is the information required?

We would like to see a short application, perhaps a template for all states to use, describing their concept or plan for utilizing the funds. The rule implies that AMS wants, UP FRONT, all the information in a plan, with a 200 word description of each proposed project, including purpose, potential impact, financial feasibility, expected measurable outcomes, goals, work plan, project oversight, and project commitment from partners. This poses a serious problem for all states because of the following:

1. States do not yet know how much money they will be getting, beyond the \$100,000.
2. States would have to seek partners and decide on projects in advance of applying.
3. Oversight, record-keeping, financial management will be compounded by the number of projects proposed and may have a stifling effect on a state's interest to award grants to a larger number of grant recipients.

We believe a state plan would reflect the priority areas that specialty crop producers have identified and outline how funds could be used in a number of areas to enhance the competitiveness of specialty crops in that state. As stated earlier, these areas could include programs such as food safety and security, agricultural education, research, pest and disease prevention, marketing and promotion, and enhancement of the health and nutrition of our children and adults.

The proposed application procedure also raises another question, “how can a state submit a project that will include a competitive grant program at the state level under these proposed rules?” In 2001, 40 percent of the grant funds were delivered through competitive grants administered at the state level. Nine states administered the funds solely through a competitive grant program under the 2001 program.

Possible suggestion regarding iv. Financial Feasibility, “For each project, provide budget estimates for the total project cost. Indicate what percentage of the budget covers administrative costs.” After this sentence add the following: It shall be allowable to include fee-based or deliverable-based projects as part of an application for an approvable state plan for grant funds.

We appreciate the recognition that administrative costs can be allowed for projects and that a state plan should indicate what percentage will be used for administrative costs.

### **Section 1290.7, Review of grant applications**

If an application for a specific project is not completed according to AMS, does this mean that amount of funds are forfeited by the state and then cannot be used for other specialty crop producers in that state? Deadlines for individual projects should be set by the state. When a state has selected individual projects based on its state plan, then the state would submit the individual projects to AMS for conformance to the state plan.

Possible suggestion for Section 1290.8 Grant agreements. “(a) After approval of a grant application, AMS will enter into a grant agreement with the State department of agriculture.” After this sentence add the following: *It shall be allowable to include fee-based or deliverable-based projects as part of an approvable grant agreement with the state department of agriculture.*

### **Section 1290.9, Reporting and oversight requirements**

#### **Section 1290.10, Audit requirements**

NASDA members seek a simplified approach in providing reports and conducting audits. Several states suggest that the Single Audit Act should oversee the auditing requirements. As proposed in the rule, the auditing requirements would cost from \$5,000 - \$8,000; this is a substantial cost to the state departments of agriculture for the limited amount of funding involved. If this is included in the overhead charged to the grant, it raises the overhead costs and reduces the amount available for actual project work. The Single Audit Act presently covers all federal funds to states that received limited federal funds. We recommend compliance with the Single Audit Act to suffice for the audit requirement.

Comments were also invited on the definition of “enhancing the competitiveness” of specialty crops. According to the Census of Agriculture, there are more than 100 separate fruit and vegetable commodities or groups of commodities in the United States. This does not account for the variety of nursery, floral and nut crops also grown here. Many issues facing specialty crop producers must be addressed to enhance and to increase the competitiveness of U.S. specialty crops. If U.S. specialty crops producers cannot compete on the world market and meet the needs of U.S. consumers, the U.S. could lose segments of our agriculture.

Producers are more competitive when they have tools and programs available to them and have the knowledge to seize upon opportunities or to make timely changes in business practices and government policies. Critical issues include: gaining market access, domestically and internationally; having affordable truck and rail transportation; escalating costs of fuel and labor; implications of having fewer buyers for specialty crop products; changing consumers preference in order to consume a wider variety of fruits and vegetables; as consumers become more knowledgeable, the ability to effectively respond to their demands; environmental concerns and conservation; overcoming trade obstacles such as high tariffs; increasing competition from China and India in the production of specialty crops; overcoming devastation from invasive pests and diseases; processing capacity; and new food product development. In all these issues, research, marketing, education (of farmer and consumer alike) and analysis are all key elements to enhance competitiveness.

Since this is a new program being administered by AMS, we strongly encourage AMS to allow for flexibility in issuing rule and program changes in the future. By considering changes, this will ensure that state departments of agriculture can administer a state-level program effectively and efficiently based on state priorities of the specialty crop industry in each respective state.

Docket Clerk  
May 22, 2006  
Page 5 of 5

Thank you for your attention to these comments and questions.

Sincerely,

A handwritten signature in black ink, reading "J. Carlton Courter, III". The signature is written in a cursive, flowing style with a large initial "J" and a long, sweeping underline.

J. Carlton Courter, III  
NASDA President